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PROMOTION AND PROTECTION OF HUMAN RIGHTS

HUMAN RIGHTS DEFENDERS

Written statement* submitted by the Union Internationale des Avocats (International Association of Lawyers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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"Human rights defenders: the lawyers' case"

1. The International Association of Lawyers (UIA), which was founded in 1927, is made up of more than 300 bars and associations representing almost 2 million lawyers, as well as thousands of individual members.

As an association working for the defence and future of the legal profession in its national and international environment, the UIA attaches particular importance to the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" adopted by the General Assembly on 9 December 1998, and to the mission of the Special Representative in charge of monitoring the situation of human rights defenders.

2. In the preamble to the Declaration, known as the "Declaration on Human Rights Defenders", these are described as individuals who, acting alone or in association with others, contribute to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources.

The Declaration confirms in particular that everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels (art. 1).

Article 9 of the Declaration further states that, "in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights". To this end, "everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay".

The same article recognizes everyone's right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms (para. 3 (c)).

Everyone's right to the lawful exercise of his or her occupation or profession is then confirmed, as is the duty of everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others to respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics (art. 11).

3. It may be noted that the main duties of the Special Representative who will report on the situation of human rights defenders in all parts of the world and on the means available for strengthening their protection in conformity with the Declaration are to receive and examine information related to the rights of human rights defenders, which should be transmitted in the first place by States members, and to cooperate with the latter on implementing the Declaration.

Effective cooperation mechanisms should also be instituted with organizations specializing in this field of work.

4. The UIA welcomes the establishment of these international instruments insofar as human rights defenders are very often in fact the first victims of violations of these rights by government officials or by the agents of non-governmental bodies. They are exposed to threats, to various forms of persecution, and to attempts on their lives and their security.

On account of their special status, however, they are also exposed to more indirect and more insidious forms of violence, such as social exclusion due to the connection in the authorities' minds between the defence of human rights and criminal activities such as terrorism or treason. Human rights activities are placed outside the law by a variety of legal restrictions, such as on the right to meet and assemble, to information and to freedom of movement. Other common forms of persecution include loss of employment and denial of access to medical care or education.

5. Among human rights defenders, lawyers are particularly exposed to the most insidious forms of persecution. Even when they are not severely affected in their physical integrity and freedom, they are frequently exposed to measures designed to prevent them from freely exercising their profession.

There is one international instrument which has no binding effect but which may be considered to express customary principles with regard to applying universally recognized human rights to lawyers. This is the "Basic Principles on the Role of Lawyers", which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and which sets out guarantees to which lawyers are entitled in performing their professional functions.

The Basic Principles refer to the lawyers' duty to uphold human rights and fundamental freedoms recognized by national and international law.

One of the most important principles is that lawyers should be guaranteed the right to the authorities' protection whenever their security is threatened as a result of discharging their functions. They should in no event be identified with their clients or their clients' causes and must not on that account be prevented from discharging their functions.

6. The UIA, one of whose objectives is to promote and defend the interests of lawyers and the exercise of their profession as defenders of the rights of citizens, has always advocated respect for the rights of legal defence and human rights whenever it has had the opportunity to do so.